DECISION NOTE – REGULATORY REGISTRY POSTING REGARDING REGULATORY AMENDMENT TO THE INDUSTRIAL CONSERVATION INITIATIVE

ISSUE:

- As announced in Ontario's Fair Hydro Plan (OFHP), the Industrial Conservation Initiative (ICI) is being expanded to allow manufactures with average monthly peak demand greater than 500 kilowatts (kW) and less than 1 megawatt (MW) to participate in ICI as "Class A" consumers and market participants.

- ENERGY staff recommends posting information on the proposed amendment to Government's Regulatory Registry (RR) as soon as possible (see appendix for a description of its proposal to amend).

KEY INFORMATION:

- ENERGY is proposing to amend O. Reg. 429/04 (i.e., Global Adjustment Regulation) to provide electricity consumers in the manufacturing sector an opportunity to participate in ICI. **Note**: For the amendments to impact electricity consumer's bills this year they must be in effect as much in advance of the consumer notification date (May 15, 2017) as possible.

- The Government's RR is designed to provide the public, including business and interested stakeholders, information about the upcoming regulatory initiatives which Ontario is proposing to make:

  - Ministries typically post a "plain language" description of the intent of the proposed amendment to the RR and therefore the full text of the proposed change does not necessarily have to be posted.

  - Posting a description of ENERGY's current proposal to amend O. Reg. 429/04 on the RR provides stakeholders with an opportunity to review and comment on the proposed amendment.

- ENERGY has prepared a description of its proposal to amend O. Reg. 429/04 of the *Electricity Act, 1998* for posting on the RR (see Appendix).

- ENERGY and LSB staff continue to work with the Independent Electricity System Operator (IESO) and legislative counsel on the drafting of the proposed regulatory amendment.

  - ENERGY could target an LRC date of April 10, 2017.

  - Posting on the RR the week of March 6, 2017 would allow ENERGY to have a posting period of approximately 30 days.

BACKGROUND:

Ontario's Regulatory Public Posting Policy

- Under Ontario's approach to Regulatory Policy, it is a recognized best practice for ministries to post for a minimum of 45-days on the RR all regulatory changes affecting business to allow for stakeholder review and comment. **Note:** Posting on the RR is not legal requirement but is consistent with Cabinet Office direction.
  - The *Ontario Regulatory Policy* which was developed as part of the implementation of the Ontario-Quebec Trade and Cooperation Agreement, signed by the two provinces on September 11, 2009 and entered into force on October 1, 2009, is the basis for the minimum 45-day posting requirement.
  - MEDG is responsible for the RR, including ensuring ministries make best efforts to comply with its best practices.

Regulatory Registry Posting Options

Options	Considerations
1. Post for 30 days **(Recommended)**	• Posting the week of March 6, 2017 would result in a 30-day posting period ending April 8, 2016. • Posting for 30 days provides stakeholders with reasonable time to review and respond to proposals while also taking consideration to the necessity to have amendments in place in advance of the May 15, 2017 notification date for new Class A consumers and market participants.
2. Post for 45 days	• Posting the week of March 6, 2017 would result in a 45-day posting period ending the week of April 17, 2017. ENERGY is targeting an LRC date of April 10, 2017. • Posting for 45 days is consistent with best practice as outlined in the *Ontario Regulatory Policy*.
3. No Posting	• Not posting fails to provide concerned stakeholders with an opportunity to review and comment on ENERGY's proposed amendment and would not be consistent with government policies in relation to providing greater public transparency in regards to its regulatory initiatives. • ENERGY is at risk of being criticized for not being consistent with Ontario's *Open Government* initiative if it does not post.

Critical Timelines (Proposed)

- Posting on the RR the week of March 6, 2017 would allow ENERGY to meet the following timelines:

Posting Date	Length of Post on RR	Posting End Date	Finals due to Cabinet Office	Proposed LRC Date
Week of March 6	30 days (approximately)	Week of April 2	March 30	April 10*
Week of March 6	45 days	Week of April 17	April 20	May 1*

*Upcoming LRC dates: March 27, April 10, May 1 and May 15, 2017.

Energy Supply Policy Division
Prepared: March 2017

APPENDIX 1 – PROPOSED POSTING LANGUAGE FOR RR

<u>Information Notice to Regulatory Registry (RR)</u>

Expansion of the Industrial Conservation Initiative (ICI).

Amending Ontario Regulation 429/04, (Adjustments Under Section 25.33 of the Act), made under the *Electricity Act, 1998* ("Ontario Regulation 429/04").

Description:

The Ontario government is committed to providing competitive electricity rates for energy intensive consumers in the manufacturing sector while also promoting electricity conservation.

The Ministry of Energy is proposing to amend Ontario Regulation 429/04 (Adjustments Under Section 25.33 of the Act) made under the *Electricity Act, 1998* ("O. Reg. 429/04") in order to expand eligibility under the Industrial Conservation Initiative (ICI) to include electricity consumers and market participants with an average monthly peak demand greater than 500 kilowatts (kW) and less than 1 megawatt (MW).

ICI is currently available to electricity consumers and market participants with an average monthly peak demand greater than 1 MW.

The new proposed amendments would allow eligible electricity consumers/market participants in the manufacturing sector (i.e., with NAICS codes commencing with the digits "31", "32", "33") in Ontario with an average monthly peak demand of greater than 500 kW and less than 1 MW to opt-in to ICI.

Other Information:

In 2010, the government introduced ICI as a set of amendments to Ontario Regulation 429/04. Ontario is committed to providing competitive electricity rates for energy intensive consumers while also promoting electricity conservation.

ICI lowers costs for eligible large electricity consumers that reduce their consumption during peak periods. ICI consumers can reduce their electricity rates by up to one-third on average, and helps to lower total system costs by deferring the need to build new peaking generation.

Under ICI, large "Class A" electricity consumers who can meet a specific average monthly peak demand threshold are charged a GA rate proportional to their share of peak electricity demand that is measured during the five highest-peak hours in the year.

Effective July 1, 2015, Class A included energy-intensive electricity consumers with average monthly peak demand between 3 and 5 MW, whose primary business is manufacturing, mining, refrigerated warehousing, greenhouses and data processing.

Effective July 1, 2017, Class A will include all electricity consumers with peak demand greater than 1 MW without any sector restrictions.

Effective July 1, 2017, Class A would also include electricity consumers and market participants in the manufacturing sector with peak demand greater than 500 kW and less than 1 MW to participate.

Information which appears along the right side of the main body of the posting

Ministry Contact (comments should be directed to the following person)

Eamon O'Riordan,
Senior Policy Advisor
Energy Supply Policy Division
Ministry of Energy
416-327-1579
Eamon.O'Riordan@ontario.ca

URLS to other documents:

Ontario Regulation 429/04 can be found at the following link:

https://www.ontario.ca/laws/regulation/040429